

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

Illinois Bell Telephone Company,)	
AT&T Communications of Illinois, Inc.,)	
CoreComm Illinois, Inc.,)	
Covad Communications Company,)	
MCI WorldCom Inc.,)	
McLeodUSA Telecommunications Services, Inc.,)	
NEXTLINK ILLINOIS Inc.,)	
Northpoint Communications, Inc.,)	
Rhythms NetConnection and Rhythms Links, Inc.,)	
21 st Century Telecom of Illinois, Inc.)	
Ushman Communications, Inc.,)	
Sprint Communications Company L.P.,)	
d/b/a Sprint Communications L.P.,)	
)	
)	00-0592
Joint Submission of Plan of Record)	
for Operations Support Systems ("OSS"))	
)	

**COMMENTS of STAFF of the ILLINOIS COMMERCE COMMISSION
ON THE SCOPE OF REHEARING ISSUES 29/31**

1. At the hearing held on May 11, 2001 in the above-referenced Docket, the Hearing Examiners asked the parties to provide a brief memorandum regarding the scope of the evidentiary portion of this proceeding. The parties were directed by the Hearing Examiner's to refer to the Examiner's Memorandum to the Commissioners dated March 12, 2001 ("Hearing Examiner's Memo"), which discussed the applications for rehearing.

2. On March 14, 2001, the Commission accepted Ameritech's application for rehearing in connection with Issues 29/31, Loop Qualification. With respect to Issues 29/31, the Hearing Examiner's Memo identifies two sub-issues for rehearing: (i) whether Ameritech requires an extension of the date in which it is to implement the ordered changes, given that a complaint filed by Covad against BellSouth allegedly supports the position that more time is required to implement changes to Ameritech Illinois' DSL Loop Qualification system, that the Order in Docket No. 00-0592 ("Original Order") provides insufficient time for Ameritech and the CLECs to meet, and the Original Order's lack of evidence supporting a March 31, 2001 deadline; and (ii) whether the DSL Loop qualification requirements imposed upon Ameritech in the Original Order are preempted given the FCC's Kansas/Oklahoma 271 Order, CC Docket No. 00-217 and the fact that the Commission did not conduct a fact-intensive investigation using the "necessary and impair" tests of 251(d)(2) of the

Telecommunications Act of 1996 (“TA 96”) and Rule 317, and did not consider the “necessary to further competition” requirement of Section 261(c) of TA 96.

DISCUSSION

3. In determining the scope of a re-hearing, the issues identified in the application for re-hearing provide the best indicator of the scope of the rehearing itself. 83 Ill. Adm. Code §200.880 (requiring the application to “state with specificity the issues for which rehearing is sought”).

4. After reviewing the Hearing Examiner’s Memo and the Application for Rehearing, Staff generally agrees with the Hearing Examiners, in that the scope of this hearing is comprised of two sub-issues.

5. The first sub-issue of this proceeding is whether the Commission is preempted from requiring Ameritech to provide loop makeup information on ten loops as opposed to one loop, as required in the Original OSS Order, in light of the FCC’s review of Access to Loop Qualification Information section in the Kansas/Oklahoma 271 Order. There are three aspects of this sub-issue, two legal and one factual. The legal issues are whether the Kansas/Oklahoma 271 Order has any legal precedential value in this proceeding, and whether the requirements set by the Commission in the Original Order are unbundled network elements such that the §251(d)(2) impair standard applies. If the impair standard applies, then the factual issue revolves around the balancing of the criteria of the impair standard.

6. The second sub-issue is whether additional time is required for Ameritech to properly implement the DSL loop qualification requirements set by the Commission. In the Original Order the Commission directed Ameritech to include the pre-ordering and ordering functionalities with the March 2001 release. Original Order at 90. In the Application for Rehearing, Ameritech bases its request for additional time on the fact that the Original Order lacks sufficient information from which to properly set a timeline. The rehearing should be limited to new information.

Respectfully submitted,

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